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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/539,114 | 02/02/2006 | Dietmar Spanke | SPAN3007/FJD | 9464 |

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| EXAMINER | |
|---|---|
| FRANK, RODNEY T | |
| ART UNIT | PAPER NUMBER |
| 2856 | |
| MAIL DATE | DELIVERY MODE |
| 03/27/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/539,114 | SPANKE, DIETMAR | |
| | Examiner | Art Unit | |
| | RODNEY T. FRANK | 2856 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) 8-15 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 8-15 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 15 June 2005 is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Jackson et al. (U.S. Patent Application Publication Number 2003/0093519; hereinafter referred to as Jackson). Jackson discloses a tank side monitor includes two processor boards, a main/communication board, containing field communications interface circuitry and interface circuitry, and an optional IS module, containing HART interface circuitry. The two processor boards are link by an optically coupled serial communications bus. The HART circuitry is multiplexed and can be operated by either the Main/Communication board processor or a local processor on the HART IS board. The optional IS module, an extension of the HART IS board, provides options such as an IS 4-20 mA input or output or other IS I/O. The TSM employs a modular approach for hardware and software, whose implementation consists of a number of modules and programs, the first being the Main/Communications board software. Other programs are contained within the HART interface module. Due to the modular approach taken in the hardware design, the software is also modular and operates on two hardware modules:

Main/Communications module software; and HART module software (Please see the abstract).

With respect to claim 8, Jackson discloses a fill-level measuring device for measuring a fill-level of a fill substance in a container, comprising a measuring unit (see paragraph [0025]), which serves to produce a measurement signal dependent on the fill level in the container; a memory (see for example paragraph [0035]), in which parameter sets for different applications are stored (see, for example, paragraph [0057]); and an evaluating unit (see paragraph [0018]), which serves to select a parameter set, and on the basis of the selected parameter set, to derive the fill level from the measurement signal, and to make the derived fill level available for further processing, evaluation and/or display (see paragraph [0057]).

With respect to claim 9, the fill-level measuring device as claimed in claim 8, in combination with an on-site interface, via which an operator can input, which parameter set is to be selected is disclosed in claim 12 of the reference.

With respect to claim 10, the fill-level measuring device as claimed in claim 8, in combination with a communication interface, via which can be input, which parameter set is to be selected is disclosed in claim 12 of the reference.

With respect to claim 11, Jackson discloses a method for fill-level measurement using a fill-level measuring device comprising: a measuring unit which serves to produce a measurement signal dependent on the fill level in the container; a memory in which parameter sets for different applications are stored; and an evaluation unit which serves to select a parameter set, and on the basis of the selected parameter set, to

derive the fill level from the measurement signal, and to make the derived fill level available for further processing, evaluation and/or display; comprising the steps of: transmitting send-signals and receiving their echo-signals using the measuring unit; and determining the fill level using the evaluating unit by examining the echo signals for distinctive structures, selecting a parameter set on the basis of the structures, and determining the fill level by means of the selected parameter set as disclosed in view of claims 24, and 28-31 of the reference.

With respect to claim 12, an arrangement for fill-level measurement using a fill-level measuring device comprising: a measuring unit which serves to produce a measurement signal dependent on the fill level in the container; a memory in which parameter sets for different applications are stored; and an evaluation unit which serves to select a parameter set, and on the basis of the selected parameter set, to derive the fill level from the measurement signal, and to make the derived fill level available for further processing, evaluation and/or display; an apparatus for identifying a present application; and a connection between said apparatus and said evaluating unit exists, via which identifications of said apparatus are available to said evaluating unit as disclosed in paragraph [0057], and in view of claims 24, and 28-31 of the reference .

With respect to claim 13, a method for fill-level measurement using a fill-level measuring device, comprising: a measuring unit which serves to produce a measurement signal dependent on the fill level in the container; a memory in which parameter sets for different applications are stored; and an evaluation unit which serves to select a parameter set, and on the basis of the selected parameter set, to derive the

fill level from the measurement signal, and to make the derived fill level available for further processing, evaluation and/or display; comprising the step of recognizing, on the basis of the measurement signals, events which make a changing of the parameter set necessary as disclosed in paragraph [0008].

With respect to claims 14, the method as claimed in claim 11, wherein the identification of which application is present is output for plausibility review or as input for other devices is disclosed in paragraph [0057].

With respect to claims 15, the method as claimed in claim 13, wherein the identification of which application is present is output for plausibility review or as input for other devices is disclosed in paragraph [0057].

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RODNEY T. FRANK whose telephone number is (571)272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. T. F./
Examiner, Art Unit 2856
March 27, 2008

/Hezron Williams/
Supervisory Patent Examiner, Art Unit 2856